



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/317,986	05/25/1999	HIDENORI YAMANAKA	Q54509	9754

7590

09/25/2003

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 200373202

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/317,986

Applicant(s)

YAMANAKA ET AL.

Examiner

Christopher C Pratt

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,6,8,10,18 and 21.Claim(s) withdrawn from consideration: 11-17.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 3. Applicant's reply has overcome the following rejection(s): The amendment corrects the claims to overcome the 112 rejection of claims 1, 6, 8, 18, and 21.

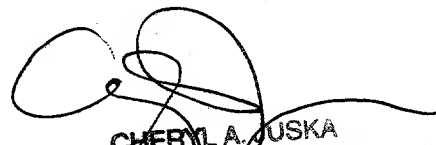
Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Fukata does not teach or suggest the narrower claimed range of non-Newtonian Coefficient (N) instantly claimed. Applicant argues that the narrower range of 1.05-1.2 is critical because it results in superior processing conditions comprising meltbown stability without clogging of the nozzles in a die. Applicant has submitted data in the form of Table 2 in an attempt to support this position. However, applicant's data is not congruent with applicant's argument and conclusion. Applicant argues that only the critical narrow range of 1.05-1.20 provides the superior processing conditions. Yet, example 1, of Table 2, shows that an N outside of applicant's supposed critical range results in "good" processing conditions. Therefore, applicant's data conflicts with the conclusion that the claimed narrower range is critical to provide superior processing conditions. It appears that either applicant's testing methods are flawed or non-Newtonian Coefficient is not directly related to processing conditions.

The examiner also notes that Table 2 does not clearly evidence that the "good/superior" properties are a result of the supposed critical range of 1.05 to 1.2, because this is not the only variable tested. The fiber size of these examples is also varied. Thus, the good results could be a result of the different fiber size or a combination of these factors. Therefore, Applicant has failed to show criticality or unexpected results for the claimed range.

Previously applicant submitted a chart showing a direct relationship between melt viscosity and non-Newtonian coefficient. Applicant now appears to argue that there is no such relationship. However, applicant fails to explain how the previously submitted graph was incorrect and how melt viscosity and non-Newtonian coefficient's are related. Applicant currently cites Table 3 showing that melt viscosities within a range of 295-320 all possess the claimed N values. The examiner again notes that Auerbach teaches the limited melt viscosity range of 200-400 (col. 4, lines 23). Harwood teaches a viscosity of 300 (col. 4, lines 16-48). It is the examiner's position that the fact that both Auerbach and Harwood teach applicant's claimed melt viscosity provides more evidence that both references lead the skilled artisan towards an N of 1.05-1.2.

For the reasons set forth above and in the previous actions, it is the examiner's position that Fukata's range is sufficiently narrow to provide evidence that the skilled artisan was in possession of the desirability to have an N of 1.05-1.2. The examiner notes that Fukata does not teach that N can be .9 or 2, but rather teaches that N must be above .9 and below 2 (col. 4, lines 9). It would be well within the level of ordinary skill in the art to modify Fukata's teaching in order to find the optimum N within .9-2.

Applicant's arguments with respect to claim 6 and Senga have been addressed in previous actions. .


CHERYL A. JUSKA
PRIMARY EXAMINER